

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
WILKES-BARRE DIVISION**

IN RE: ) CHAPTER 13  
 )  
MARY FONTONES )  
aka MARY ELIZABETH FONTONES, and )  
RALPH FONTONES )  
aka RAFAEL FONTANEZ JR, )  
 )  
Debtors ) CASE NO.: 5:19-BK-04865-RNO

**OBJECTION OF CAPITAL ONE AUTO FINANCE,  
A DIVISION OF CAPITAL ONE, N.A.  
TO CONFIRMATION OF PROPOSED PLAN**

Capital One Auto Finance, a division of Capital One, N.A. ("COAF"), by and through its attorneys, Mester & Schwartz, P.C., files **Objection to Confirmation of Debtors' Proposed Plan** and states:

1. On August 18, 2016, Debtor Mary Fontones, entered into a Retail Installment Sales Contract in the principal amount of \$19,593.35 (the "Contract") that referred and related to the purchase of a 2016 TOYOTA Corolla Sedan 4D LE I4, V.I.N. 2T1BURHE8GC626896 (the "Motor Vehicle"). COAF is the assignee of the Contract.
2. The interest rate under the Contract is 12.03% *per annum*.
3. To secure the Contract, Debtor granted a first lien on the Motor Vehicle in favor of COAF.
4. On November 14, 2019, Debtors filed a Voluntary Petition under Chapter 13 of the United States Bankruptcy Code.
5. On November 14, 2019, Debtors filed a Proposed Plan (the "Plan").
6. The Chapter 13 Trustee has scheduled a 341(a) Meeting of Creditors for December 16, 2019.
7. As of November 14, 2019, the total principal balance of COAF's claim was \$12,561.56.
8. In the Plan, Debtor proposed to pay COAF the sum of \$8,300.00 at the rate of 5.000% *per annum* interest.
9. Debtors' proposed treatment fails to comply with the cramdown requirements for confirmation as contained in 11 U.S.C. Section 1325(a)(5)(B)(i).

10. The fair market value for the Motor Vehicle is \$12,100.00. **See attached Exhibit C.**
11. COAF is entitled to a secured claim of \$12,100.00 at 5.75% interest over the life of the plan.
12. A 5.000% interest rate is inconsistent with *Till v. SCS Credit Corp.*, 541 U.S. 405 (2004).
13. For the foregoing reasons, COAF objects to confirmation of the Plan.

WHEREFORE **Capital One Auto Finance, a division of Capital One, N.A.**, respectfully requests this Honorable Court to deny confirmation of the Plan.

Respectfully submitted,

Mester & Schwartz, P.C.

BY: /s/ Jason Brett Schwartz  
Jason Brett Schwartz, Esquire

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Dated: December 18, 2019